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November 30, 2018

**Via Email: E-mail (Preferred): 64429-00937933@requests.muckrock.com**

Robert Delaware  
MuckRock News  
411A Highland Ave  
Somerville, MA 02144-2516

Re: Public Records Act Request (Government Code §6250, et. seq.)

Dear Mr. Delaware:

This office is in receipt of your Public Records Act request for "all documents, reports, incident logs, photographs, autopsy reports or a "case file" related to the death of a (presumably) unidentified decedent who committed suicide at a business located in the 3300 block of Highway 59 in Merced County in November of 2014" received on November 28, 2018.

Enclosed is a copy of Merced County Sheriff's Office Report No. 2014-85832, Coroner's Report 14-35835, Autopsy Report, Toxicology Report and CAD reports pertaining to the death of Luke Nusbaum.

Phone numbers and addresses have been redacted based on the privacy interests of the affected "subject" persons. This is in accordance with California Government Code sections 6254 (c) (unwarranted invasion of personal privacy that does not shed light on the agency's performance of its duty; see also *Caldecott v. Superior Court* (2015) 243 Cal.App.4th 212), 6254 (k) (disclosure protected by state law, i.e., Cal. Const. Art 1, sec 1), and 6255 (a) (private interest in privacy clearly outweighs the public interest).

California Code of Civil Procedure section 129 states:

(a) Notwithstanding any other law, a copy, reproduction, or facsimile of any kind of a photograph, negative, or print, including instant photographs and video recordings, of the body, or any portion of the body, of a deceased person, taken by or for

the coroner at the scene of death or in the course of a post mortem examination or autopsy, shall not be made or disseminated except as follows:

(1) For use in a criminal action or proceeding in this state that relates to the death of that person.

(2) As a court of this state permits, by order after good cause has been shown and after written notification of the request for the court order has been served, at least five days before the order is made, upon the district attorney of the county in which the post mortem examination or autopsy has been made or caused to be made.

(3) For use or potential use in a civil action or proceeding in this state that relates to the death of that person, if either of the following applies:

(A) The coroner receives written authorization from a legal heir or representative of that person before the action is filed or while the action is pending. To verify the identity of the legal heir or representative, all of the following shall be provided to the coroner:

(i) A declaration under penalty of perjury that the individual is a legal heir or representative of the deceased person.

(ii) A valid form of identification.

(iii) A certified death certificate.

(B) A subpoena is issued by a party who is a legal heir or representative of the deceased person in a pending civil action.

(b) This section shall not apply to the making or dissemination of a copy, reproduction, or facsimile for use in the field of forensic pathology, in medical or scientific education or research, or by a coroner or any law enforcement agency in the United States for investigative purposes, including identification and identification confirmation.

(c) This section shall apply to a copy, reproduction, or facsimile, and to a photograph, negative, or print, regardless of when it was made.

(d) A coroner is not personally liable for monetary damages in a civil action for any act or omission in compliance with this section.

Accordingly, Merced County will not release any photographs taken of the decedent unless we receive a court order, after proper notice as stated in the above code section. Six photographs of the scene are provided.

Should you have any questions, please feel free to call me.

Very truly yours,

James N. Fincher  
Merced County Counsel



Roger S. Matzkind  
Chief Civil Litigator

RSM/smp  
Enclosures: As stated